vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5477 OF 1996

Maharashtra Association for the
Cultivation of Science ... Petitioner

V/s.

Vidnyan Vardhini Kamgar Karmachari
& Ors. ... Respondents

Mr.S.K. Talsania with Mr.Mahesh Londhe for Petitioner
Mr.S.M. Dharap for Respondent No.1

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **NOVEMBER 27, 2006**

ORAL JUDGMENT:

. The award which has been challenged has been passed in Reference (IT) No.24 of 1991. Under this award, the Industrial Tribunal, Pune has granted certain demands of the workmen employed by the Petitioner while rejecting the others. The demands are thus:

1. Demand No.1 - Scale grade, Increments
2. Demand No.2 - Dearness Allowance
3. Demand No.3 - Paid holidays, Leaves, etc.
4. Demand No.7 - Coats, shoes and allowances etc.
5. Demand No.10 - Permanency.
6. Demand No.12 - Implementation

The Tribunal has granted Demand No.1 regarding scale

grade and increments, Demand No.7 in respect of coats, shoes and allowances, etc. and Demand No.10 for permanency.

2. According to the Petitioner, it exists and is run because of the aid given by the Central Government. It has been admittedly paying wages as per the recommendations of the Pay Commissions. Currently it is paying the wages payable as per the recommendations of the V Pay Commission. The Tribunal has therefore rejected the demand for enhancement of the payscales as the salaries paid are as per the recommendations of the Pay Commission. While doing so, the Tribunal has directed the Petitioner "to classify the employees on the basis of experience, qualification and pay them revised salary as per the recommendation of the Fourth Pay Commission."

3. The Tribunal has then rejected the demands for dearness allowance, paid holidays due and leave. It has granted the demand raised by the workmen in respect of the coat, shoe and washing allowances, partly. The workmen had demanded Rs.60/- as washing allowance for the Class IV employees. The Tribunal, after considering the fact that they were being paid a paltry amount of Rs.15/- per month, has granted Rs.50/- per month

instead. The Tribunal has directed that woollen coats which were being given every 5 years to the class IV employees should be given every 4 years instead of every year as demanded by the workmen. In my view, there is no need to interfere with these findings of the Tribunal. There is no perversity nor is there any error apparent on the face of the record in respect of these findings.

4. The Tribunal has also granted permanency which is demand No.10. The workmen had demanded that they be made permanent on completion of 240 days' continuous service. After consideration of the scanty evidence on record, the Tribunal has directed that the employees should be made permanent. The Petitioners have contended that most of the work undertaken by them is project related and therefore, the employees cannot be made permanent. Their services are co-terminus with the duration of the project. Once a project ends, the services of the employees are terminated. The Union on the other hand, contends that although the employee may be appointed for a particular project, he is continued in the next project in most cases. Several employees out of the 175 employees working had thus continued for more than 15 years in service without being made permanent. Besides this category of employees,

according to the Petitioner, there are some employees who are permanently on their rolls and therefore, the question of making such employees permanent does not arise. However, the evidence led by the Petitioner indicates that no employee has been made permanent at all for several years whether or not the employee is working on a project or in the regular establishment. The evidence led by both the parties cannot lead one to any conclusion, much less to the conclusion that the Tribunal has drawn.

5. In my opinion, it would be in the fitness of things to remand the matter to the Tribunal to decide the question of permanency afresh. The parties are therefore directed to appear before the Tribunal on 11.12.2006 at 11 am. The parties are at liberty to file further pleadings with regard to permanency. They may also lead evidence in that behalf. The Tribunal shall make its award in respect of the demand for permanency by 30th June, 2007. The rest of the award is not interfered with, except to the extent the directions quoted above are given by the Tribunal while considering Demand No.1.

6. Writ Petition is disposed off in the aforesaid terms.